

### REMARKS

At the time of the Final Office Action, Claims 1-8, 10-12, 14-20 and 23-25 were pending in this Application. Claims 1-8, 10-12, 14-20 and 23-25 were rejected. Claims 1, 4, and 12 have been amended to further define various features of Applicant's invention. Claim 25 is cancelled without prejudice or disclaimer. Claims 9, 13, and 21-22 were previously cancelled. Applicant respectfully requests reconsideration and favorable action in this case.

### Examiner Interview

On October 30, 2007, Attorney for Applicant, Mr. Eric Grabski, spoke with Examiner Rojas by telephone regarding the Final Office Action and Applicant's claims. Mr. Grabski would like to thank the Examiner for her consideration during the call.

During the call, the parties briefly discussed the terms "caching," "queuing," and "processing" of data. Mr. Grabski explained that Applicant intended to amend Claim 1 to recite "neither forwarding the write operation for processing nor caching the write operation, such that the write operation is neither completed nor written to disk." Examiner Rojas indicated that she believed such language would distinguish the claim from the prior art, and would make a note in the file regarding the conversation.

### Rejections under 35 U.S.C. §103

Claims 1-8, 10-12, 14-20 and 23-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,549,977 to Robert W. Horst et al. ("*Horst*") in view of U.S. Patent Application Publication No. 2002/0138670 to Richard H. Johnson ("*Johnson*").

Applicant submits that the proposed *Horst-Johnson* combination fails to teach or suggest all elements of Applicant's amended claims. For example, regarding amended Claim 1, the proposed *Horst-Johnson* combination fails to teach or suggest:

if the particular intercepted I/O operation is identified as a write operation to a data portion of a disk RAID volume, returning a success status to the requesting application and neither forwarding the write operation for processing nor caching the write operation, such that the write operation is neither completed nor written to disk, such that the write operation is not completed. (emphasis added).

In the “Response to Arguments” section of the Office Action, the Examiner argues that *Horst*’s does not constitute a “queue” (a term previously recited in Claim 1) “because it does not hold written data in any particular order and does not send the data it holds to the disk in any particular order, as queues are known to do. (Final Office Action, page 2).

Although Applicant does not necessarily agree with the Examiner’s position, Applicant has amended Claim 1 to recite “neither forwarding the write operation for processing nor caching the write operation, such that the write operation is neither completed nor written to disk.” As acknowledged by the Examiner, *Horst* teaches caching write data, which is later written to disk when the cache is flushed. (*Horst*, col. 1, lines 20-33; Final Office Action, pages 2-3). Thus, *Horst* teaches directly away from amended Claim 1.

*Johnson* also fails to teach or suggest these elements of amended Claim 1.

For at least the reasons above, the proposed *Horst-Johnson* combination does not teach or suggest all elements of amended Claim 1, and in fact teaches away from amended Claim 1. Thus, Applicant respectfully requests reconsideration and allowance of amended Claim 1, as well as Claims 2-3 and 23 that depend from Claim 1.

In addition, for analogous reasons, Applicant respectfully requests reconsideration and allowance of amended independent Claims 4 and 12, as well as Claims 5-8, 10-11, 14-20, and 24 that depend therefrom.

ATTORNEY DOCKET  
016295.1469  
(DC-05355)

PATENT APPLICATION  
10/692,397

9

### CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant respectfully submits a Request for Continued Examination (RCE) Transmittal and authorizes the Commissioner to charge \$810.00 to Deposit Account 50-2148 in order to effectuate this filing.

Applicant believes there are no additional fees due at this time. However, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2689.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorney for Applicant

*E.M. Grabski*

Eric M. Grabski  
Reg. No. 51,749

Date: October 30, 2007

SEND CORRESPONDENCE TO:

BAKER BOTTS L.L.P.

CUSTOMER ACCOUNT NO. **23640**

512.322.2689

512.322.8383 (fax)